

**REMARKS**

Claims 1-3 and 34-40 are pending in the current application. Claims 1 and 34 are independent claims. Reconsideration in view of the following remarks is kindly requested.

35 U.S.C. § 103(a) Sladek in view of Sawyer

Claims 1, 3, 34-35, 37 and 40 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sladek (U.S. Patent No. 6,622,016) in view of Sawyer (U.S. Patent No. 5,828,737). Applicants respectfully traverse this art ground of rejection.

The Examiner admits that “Sladek fails to disclose a user end in operative communication with the service data node, allowing the user to implement service creation and service negotiation without service provider intervention” which is similar to claim language present in the independent claims (see page 3 of the Office Action). Yet the Examiner alleges that Sawyer discloses this particular feature absent in Sladek.

Sawyer is directed to a passive monitoring system which bills users of communication devices based on a level of bandwidth use. Sawyer is directed to billing users of cellular phones that access the internet based on a metric other than a duration of internet usage.

The metric used by Sawyer is an amount of bandwidth used by the user which is calculated with “a bandwidth use monitoring device (BUMD) 40 connected to either one or both of the nodes 12 and 14 and operable to make measurements for each communication carried over the communications link 18 of the instantaneous amount of bandwidth being used by the communication” (col. 4, lines 51-57). The BUMD 40 sends the instantaneous bandwidth use to a bandwidth meter 46 which measures an average amount of bandwidth use for the user (see col. 4, lines 59 and 64). A processing device 42 determines a total

bandwidth usage based on the average bandwidth usage and multiplies the bandwidth usage by a charging rate to determine how much to bill the user (see col. 4, line 67 – col. 5, line 5).

Figure 2 of Sawyer illustrates that the bandwidth meter 46 may be attached to the mobile switching center (MSC) 30 to passively monitor communications (including bandwidth usage) of individual users. Accordingly, Sawyer's bandwidth meter 46 (which includes the BUMD 40 and the processor 42 and serves as the sole connection to the billing center 44) handles no service creation, service negotiation and/or service selection. This is because the bandwidth meter 46 merely passively monitors communications in order to bill the user. In Sawyer, services are allocated to the user through a service provider, not the bandwidth meter 46. In other words, service creation and/or service negotiation must be preformed through a service provider in Sawyer.

Thus, Applicants respectfully submit that Sladek, single or in combination with Sawyer cannot disclose or suggest a service data node “allowing the user to implement service creation and service negotiation without service provider intervention” as recited in independent claim 1; and/or allowing the user to select a service by accessing the database without service provider intervention” as recited in independent claim 34. As such, claims 3 and 35-40, dependent upon independent claims 1 and 34, respectfully, are likewise allowable over Sladek in view of Sawyer at least for the reasons given above with respect to independent claims 1 and 34.

Applicants respectfully request that the Examiner withdraw this art ground of rejection.

35 U.S.C. § 103(a) Sladek and Sawyer further in view of Bianconi

Claims 2 and 36 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sladek and Sawyer and further in view of Bianconi. Applicants respectfully traverse this art ground of rejection.

Applicants agree with the Examiner that the combination of Sladek and Sawyer does not disclose or suggest “a database to store quality of services” (see page 5 of the Office Action). Yet the Examiner alleges that Bianconi discloses this particular deficiency of the combination of Sladek and Sawyer.

Even assuming, for the sake of argument, that the Examiner is correct in asserting that Bianconi discloses a database to store a quality of services, which Applicants submit it does not. Bianconi does not disclose or suggest a service data node “allowing the user to implement service creation and service negotiation without service provider intervention” as recited in independent claim 1 and/or “allowing a user to select a service by accessing the database without service provider intervention” as recited in independent claim 34.

As such, claims 2 and 36, dependent upon independent claims 1 and 34, respectfully, are likewise allowable over Sladek and Sawyer further in view of Bianconi at least for the reasons given above with respect to independent claims 1 and 34.

Applicants respectfully request that the Examiner withdraw this art ground of rejection.

35 U.S.C. § 103(a) Sladek and Sawyer further in view of Lohtia

Claim 38 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Sladek and Sawyer and further in view of Lohtia. Applicants respectfully traverse this art ground of rejection.

Applicants agree with the Examiner that the combination of Sladek and Sawyer does not disclose or suggest “content push services” (see page 6 of the Office Action). The Examiner alleges that Lohtia discloses this particular deficiency of the combination of Sladek and Sawyer.

However, Lohtia, while cited for a particular teaching, does not teach or suggest what is missing in Sladek and Sawyer, e.g. Lohtia does not disclose or suggest “allowing a user to select a service by accessing the database without service provider intervention” as recited in independent claim 34.

As such, claim 38, dependent upon independent claim 34, is likewise allowable over Sladek and Sawyer further in view of Lohtia at least for the reasons given above with respect to independent claim 34.

Applicants respectfully request that the Examiner withdraw this art ground of rejection.

35 U.S.C. § 103 (a) Sladek and Sawyer further in view of Sarkki

Claim 39 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sladek and Sawyer and further in view of Sarkki. Applicants respectfully traverse this art ground of rejection.

Sarkki is cited for its limited teachings of transaction based services. However, Sarkki, too is silent as to “allowing a user to select a service by accessing the database without service provider intervention” as recited in independent claim 34.

As such, claim 39, dependent upon independent claim 34, is likewise allowable over the combination of Sladek and Sawyer further in view of Sarkki at least for the reasons given above with respect to independent claim 34.

Applicants respectfully request that the Examiner withdraw this art ground of rejection.

Reconsideration and allowance of all claims is respectfully requested.

**CONCLUSION**

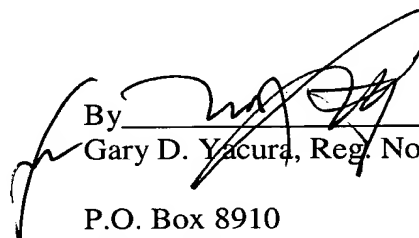
Accordingly, in view of the above, reconsideration of the objections and rejections and allowance of each of claims 1-3 and 34-40 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Matthew J. Lattig at (703) 668-8026 direct.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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